

**IN THE HIGH COURT OF PUNJAB & HARYANA
AT CHANDIGARH**

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**CRM-M-24704-2019
Date of decision: 27.01.2020**

Sonu Rajoudia and another

.....Petitioners

Versus

State of Haryana and another

.....Respondents

CORAM: HON'BLE MR. JUSTICE ARUN KUMAR TYAGI

Present : Mr. Vivek Goyal, Advocate
for the petitioners.

Mr. Arjun Singh Yadav, AAG, Haryana
for respondent No.1.

Mr. Pradeep Sehrawat, Advocate
for respondent No.2.

ARUN KUMAR TYAGI, J (ORAL)

Petitioners-Smt. Sonu Rajoudia and Sunny Kumar @

Sunny have filed the present petition under Section 482 of the Code of Criminal Procedure, 1973 for quashing of FIR No.147 dated 11.04.2019 registered under Sections 406 and 420 of the Indian Penal Code, 1860 (for short "the IPC") at Police Station Sadar Thanesar, District Kurukshetra (**Annexure P-1**) along with all consequential proceedings arising therefrom in view of the compromise dated 01.05.2019 (**Annexure P-2**) effected with respondent No.2-**Anil Kaushik**.

The above said FIR was registered on the statement of respondent No.2/complainant-Anil Kaushik alleging that accused/petitioners Smt. Sonu Rajoudia and Sunny Raheja cheated him and dishonestly induced him to pay amount of Rs.8,50,000/- on different dates on the pretext of sending his son Hitesh Kaushik to Canada and providing work to him but the accused neither sent his son

abroad nor returned his money.

The petitioners have filed the present petition for quashing of the FIR on the grounds that the matter has been amicably compromised between the parties and they have resolved their differences.

The Coordinate Bench of this Court, while issuing notice of motion on 28.05.2019, passed the following order:-

"The present petition has been filed under Section 482 Cr.P.C. for quashing of F.I.R. No.147 dated 11.4.2019 registered under Sections 406 and 420 IPC at Police Station Sadar Thanesar, District Kurukshetra and all other consequential proceedings arising therefrom on the basis of compromise effected between the parties.

Notice of motion.

On the asking of the Court Mr. Surender Singh, AAG, Haryana accepts notice on behalf of the respondent No.1 and Mr. Pradeep Sherawat, Advocate has entered appearance on behalf of the respondent No.2.

Counsel for the petitioner undertakes to supply requisite copy of the paper book to the opposite parties during the course of the day.

To come up on 19.8.2019. Meanwhile, the parties are directed to be present before the Illaqa Magistrate/trial Court on 16.7.2019 or on any other date convenient to the Court for recording their statements with regard to compromise. The Court is directed to record the statements of both the parties to its satisfaction to know its genuineness that the statements are not the result of any pressure or coercion in any manner. The Court is further directed to send report along with the statements of the parties with regard to validity or otherwise of the compromise effected between the parties and also intimate whether any criminal case and proclamation proceedings is pending against either of the parties before the next date of hearing."

In compliance with the above said order, learned Additional Chief Judicial Magistrate, Kurukshetra has recorded the statements of both the parties and submitted report dated 29.07.2019.

The relevant part of the same reads as under:-

"The undersigned was on casual leave on 16.07.2019. Accordingly, on 25.07.2019, the parties appeared before the undersigned and the undersigned recorded the statements of complainant Anil Kaushik and accused Sonu Rajoudia as well as Sunny Raheja in duplicate. Both the complainant Anil Kaushik & accused Sonu Rajoudia and Sunny Raheja stated that they have compromised the matter arising out of FIR No.147 dated 11.04.2019 under Sections 406 & 420 IPC P.S. Sadar Thanesar, voluntarily out of their free will & without any coercion, undue influence or force. The complainant has received the entire compromise amount. The complainant has no objection, if the aforementioned FIR is quashed.

The prosecution was directed to report as to whether any other criminal case or proclamation proceedings is pending against either of the parties. Accordingly, SI Devender Kumar Belt No.123-A, P.S. Sadar Thanesar, Investigating Officer case FIR No.147 dated 11.04.2019 under Section 420 and 406 IPC P.S. Sadar Thanesar has made statement on 26.07.2019 that no other criminal case or proclamation proceedings is pending either against the complainant or the accused.

After going through the statement of Anil Kaushik complainant and Sonu Rajoudia and Sunny Raheja accused recorded on 25.07.2019, the undersigned is of the considered opinion that the statements made by the parties appears to be bonafide and are not result of any pressure or coercion in any manner. Both the parties have categorically stated in their statements that they are making the statement voluntarily, out of free will and without any fear or pressure of any kind. The complainant has further stated that he has received the entire compromised amount. In view of the statements made by the parties the undersigned is of the considered opinion that the compromise effected between the parties appears

to be genuine and valid. The offences under Sections 406 and 420 IPC can be validly compounded under Section 320 (2) Cr.P.C. with the permission of the Court. The Investigating Officer SI Devender Kumar has made statement that no other criminal case or proclamation proceedings are pending against either the accused or complainant in the present case.”

I have heard learned Counsel for the petitioners, learned State Counsel and learned Counsel for respondent No.2 and gone through the relevant record.

It is now well settled that the High Court has inherent power to quash the criminal proceedings in non-compoundable cases on the basis of settlement between the parties for securing the ends of justice or to prevent abuse of the process where the possibility of conviction is remote and bleak and continuation of the criminal case would put the accused to great oppression and prejudice and extreme injustice would be caused to him by not quashing the criminal case. Criminal cases having overwhelmingly and predominantly civil character particularly those arising out of commercial transaction or arising out of matrimonial relationship or family dispute can be quashed when the parties have resolved their entire dispute among themselves. However, such power cannot be exercised in those prosecutions which involve heinous and serious offences of mental depravity or offences like murder, rape dacoity, etc. which are not private in nature and have a serious impact on society. Similarly, prosecution for offences alleged to have been committed under special enactments like the Prevention of Corruption Act or the offences committed by public servant while working in that capacity cannot be

quashed on the basis of compromise between the victim and the offender. For judicial precedents in this regard, reference may be made to *Narinder Singh Vs. State of Punjab (Supreme Court) : 2014 (2) RCR (Criminal) 482*, *State of Madhya Pradesh Vs. Laxmi Narayan and others (Supreme Court) : 2019 (2) RCR (Criminal) 255* and *Kulwinder Singh and others Vs. State of Punjab and others (Punjab and Haryana High Court) : 2007 (3) RCR (Criminal) 1052*.

A perusal of the report of learned Additional Chief Judicial Magistrate, Kurukshetra clearly reveals that the matter has been compromised by the parties with their free consent, voluntarily and without any coercion or undue influence.

Learned State counsel has no objection in case the aforesaid FIR along with all subsequent proceedings arising therefrom is quashed on the basis of compromise effected between the parties in this case.

The present case is overwhelmingly and predominantly of private/personal character arising out of commercial transaction. The parties have resolved their entire dispute among themselves. The compromise has been arrived at between the parties at the initial stage.

In view of the facts and circumstances of the case, the possibility of conviction of the petitioners is remote and bleak and continuation of this case will put the petitioners to great oppression and extreme injustice would be caused to the petitioners if the FIR and all consequential proceedings are not quashed. Therefore, FIR No.147 dated 11.04.2019 registered under Sections 406 and 420 of the IPC at Police Station Sadar Thanesar, District Kurukshetra (**Annexure P-1**) is

quashed along with all consequential proceedings arising therefrom.

The petition is allowed accordingly.

27.01.2020

Vinay

(ARUN KUMAR TYAGI)
JUDGE

Whether speaking/reasoned : Yes/No
Whether reportable : Yes/No